

# SENATE BILL No. 397

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-51-5.

**Synopsis:** Special education scholarship accounts. Establishes the special education scholarship account fund (fund) to provide education options for eligible special education students in Indiana. Defines "eligible special education student" as a student who has had an active individualized education program (IEP) within the past 18 months. Provides that the treasurer of state administers the fund. Provides that, if a parent enters into an agreement with the department of education (department), the department in exchange for the agreement shall transfer: (1) 100% of the eligible special education student's state tuition support; and (2) any amount the school corporation would receive for the student's special education services; to a special education scholarship account within the fund. Provides that the treasurer of state may approve disbursements from a special education scholarship account for payment of the following expenses for the eligible special education student: (1) Tuition and fees at a qualified school. (2) Textbooks required by a qualified school. (3) Services of a qualified education services provider. Defines "qualified school" as a nonpublic school that is an eligible school for purposes of the choice scholarship. Defines "qualified education services provider" as a tutor, another person, or an organization that is certified by the department to receive payment from a special education scholarship account for services provided to an eligible special education student. Specifies that a parent who signs an agreement to establish a special education scholarship account may not accept a choice scholarship.

**Effective:** Upon passage.

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January 12, 2016, read first time and referred to Committee on Education & Career Development.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 397

A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-51-5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 5. Special Education Scholarship Accounts**

5 **Sec. 1. This chapter applies to a school year beginning July 1,**  
6 **2016, and each school year thereafter.**

7 **Sec. 2. As used in this chapter, "eligible special education**  
8 **student" means any student who has had an active individualized**  
9 **education program (as defined in IC 20-18-2-9) within the past**  
10 **eighteen (18) months.**

11 **Sec. 3. As used in this chapter, "fund" refers to the special**  
12 **education scholarship account fund established under section 10 of**  
13 **this chapter.**

14 **Sec. 4. As used in this chapter, "parent" means a resident of**  
15 **Indiana who is a parent (as defined in IC 20-18-2-13) with**  
16 **authority to act on behalf of the eligible special education student.**

17 **Sec. 5. As used in this chapter, "qualifying agreement" means**



1 an agreement that meets the requirements of section 11 of this  
2 chapter.

3 Sec. 6. As used in this chapter, "qualified education services  
4 provider" means a tutor, another person, or an organization that  
5 has received a qualification certificate under section 15 of this  
6 chapter to receive payment from a special education scholarship  
7 account for services provided to an eligible special education  
8 student under this chapter.

9 Sec. 7. As used in this chapter, "qualified school" means a  
10 nonpublic school (as defined in IC 20-18-2-12) that is an eligible  
11 school for purposes of the choice scholarship under IC 20-51-4.

12 Sec. 8. As used in this chapter, "special education scholarship  
13 account" means an account established within the fund for an  
14 eligible special education student.

15 Sec. 9. As used in this chapter, "tutor" means a person who is  
16 certified or licensed by a state, regional, or national certification or  
17 licensing organization or who has earned a valid teacher's license  
18 or who has experience teaching at an eligible postsecondary  
19 institution.

20 Sec. 10. (a) The special education scholarship account fund is  
21 established. The purpose of the fund is to provide education options  
22 for students in Indiana with special education needs. The fund shall  
23 be administered by the treasurer of state.

24 (b) The fund consists of the following:

- 25 (1) Appropriations by the general assembly.
- 26 (2) Amounts transferred to an account within the fund by the  
27 department under section 12 of this chapter.
- 28 (3) Federal grants or other federal appropriations.
- 29 (4) Interest and other earnings derived from investment of  
30 money in the fund.

31 (c) The treasurer of state shall establish an account within the  
32 fund for each eligible special education student with a current  
33 qualifying agreement with the department.

34 (d) The treasurer of state shall deposit the amount transferred  
35 to the fund by the department under subsection (b)(1) in the  
36 account of the eligible special education student established under  
37 subsection (c).

38 (e) Except as provided in subsection (f), money in the fund at the  
39 end of the state fiscal year does not revert to the state general fund.

40 (f) Any money that remains in an account within the fund  
41 established under subsection (c):

- 42 (1) upon the eligible special education student's completion of



1 high school; or  
 2 (2) upon termination of a qualifying agreement and  
 3 enrollment of the eligible special education student at a school  
 4 corporation;  
 5 reverts to the state general fund.

6 (d) Money in the fund (and each account within the fund) is  
 7 continuously appropriated for the purposes of this chapter.

8 Sec. 11. (a) A parent wishing to enroll an eligible special  
 9 education student for a special education scholarship account must  
 10 sign an agreement with the department to do the following:

11 (1) To provide an education for the eligible special education  
 12 student in at least the subjects of reading, grammar,  
 13 mathematics, social studies, and science.

14 (2) Not enroll the eligible special education student in any  
 15 other school corporation or charter school.

16 (3) Release the school corporation in which the child has legal  
 17 settlement from all obligations to educate the eligible special  
 18 education student and acknowledge as part of the release that  
 19 the school corporation has provided clear notice to the parent  
 20 that the eligible special education student has no individual  
 21 entitlement to a free appropriate public education from the  
 22 school corporation, including special education and related  
 23 services, for as long as the student is enrolled for a special  
 24 education scholarship account.

25 (4) Use money deposited in the eligible special education  
 26 student's account only for the following expenses of the  
 27 eligible special education student:

28 (A) Tuition and fees at a qualified school.

29 (B) Textbooks required by a qualified school.

30 (C) Services of a qualified education services provider.

31 (b) A parent must renew an eligible special education student's  
 32 enrollment for a special education scholarship account before each  
 33 school year.

34 (c) A signed agreement under this section constitutes  
 35 compulsory school attendance under IC 20-33-2.

36 (d) A parent who signs an agreement under subsection (a) may  
 37 not accept a choice scholarship under IC 20-51-4.

38 Sec. 12. (a) In exchange for a parent's agreement under section  
 39 11 of this chapter, the department shall transfer the amount  
 40 determined under subsection (b) to the fund for deposit in the  
 41 eligible special education student's special education scholarship  
 42 account.



(b) The amount that the department shall transfer to the fund under subsection (a) is equal to the sum of the following:

(1) one hundred percent (100%) of the state tuition support amount determined under the last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible special education student has legal settlement.

STEP TWO: Determine the amount of state tuition support that the school corporation identified under STEP ONE is eligible to receive under IC 20-43 for the state fiscal year in which the current school year begins, excluding amounts provided for special education grants under IC 20-43-7 and career and technical education grants under IC 20-43-8.

STEP THREE: Determine the result of:

(A) the STEP TWO amount; divided by

(B) the current ADM (as defined in IC 20-43-1-10) for the school corporation identified under STEP ONE for the state fiscal year used in STEP TWO.

(2) Any amount a school corporation would receive under IC 20-43-7 for the eligible special education student if the eligible special education student attended the school corporation.

Sec. 13. (a) The treasurer of state may approve disbursement from a special education scholarship account for:

(1) payment of tuition and fees to a qualified school;

(2) payment for textbooks required by a qualified school; and

(3) payment for services of a qualified education services provider, if the treasurer of state has received a qualification certificate from the department for the education services provider under section 15 of this chapter.

(b) Money disbursed from a special education scholarship account must be used only for purposes of the eligible special education student as provided under this chapter.

(c) A qualified school or a qualified education services provider may not share with, refund to, or rebate to the parent or qualified special education student any amounts received from a special education scholarship account.

Sec. 14. (a) The department may conduct annual audits of a random sample of special education scholarship accounts to ensure compliance with:

(1) the terms of the qualifying agreement entered into under



section 11 of this chapter; and

(2) any other provision or requirement of this chapter.

(b) The department may terminate a qualifying agreement based on noncompliance with subsection (a)(1) or (a)(2).

Sec. 15. (a) A person or organization (other than a qualified school) that wishes to provide education services to an eligible special education student and receive payment from a special education scholarship account under this chapter must first apply to the department not later May 1 of each year requesting certification by the department. The department shall prescribe the form and contents of the application. An applicant must submit to the department all the information the department deems necessary to:

(1) determine the applicant's qualifications; and

(2) complete the investigation required under subsection (b).

(b) If a person or organization applies to the department requesting certification under subsection (a), the department shall investigate the applicant, and each employee of the applicant, to determine if the applicant, or an employee of the applicant has:

(1) been investigated for any allegation of fraud or abuse; or

(2) a record of a misdemeanor or felony criminal conviction.

(c) After the department conducts an investigation under subsection (b), the department shall promptly notify an applicant whether the applicant is certified by the department to receive payment from a special education scholarship account. If an applicant is certified by the department under this subsection, the department shall provide to the applicant a qualification certificate evidencing the applicant's eligibility to receive payment from a special education scholarship account for services provided to an eligible special education student under this chapter. The department shall provide to the treasurer of state a copy of the applicant's qualification certificate.

Sec. 16. A qualified school under this chapter is not an agent of the state or federal government, and therefore:

(1) the department or any other state agency may not in any way regulate the educational program of a qualified school that accepts money from an education scholarship account under this chapter, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements, and other activities carried out by the qualified school; and

(2) a qualified school shall be given the freedom to provide for



1           the educational needs of students without governmental  
2           control.

3           **Sec. 17.** The amounts distributed from a special education  
4           scholarship account for an eligible special education student shall  
5           not be treated as income or a resource for the purposes of  
6           qualifying for any other federal or state grant or program  
7           administered by the state or a political subdivision.

8           **SECTION 2.** An emergency is declared for this act.

